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Filing date: **04/13/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058956
Party	Plaintiff SoCal Maico
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Submission	Opposition/Response to Motion
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Signature	/Ken Dallara/
Date	04/13/2016
Attachments	AMENDED OPPOSITION TO MOTION for judgement on the plead- ings'.pdf(5898869 bytes)

In Re Registration Number	:	4,156,487
Opposition Filing Date	:	March 4, 2015
Opposition Number	:	92/058956
Registered Marks	:	MAICO DESIGN MARK

J. GARY KORTZ	}	
	}	
	}	
Petitioner,	}	<u>AMENDED</u>
	}	PETITIONERS OPPOSITION TO
v.	}	RESPONDENT'S MOTION FOR
	}	JUDGMENT ON THE
	}	PLEADINGS
578539 B.C. LTD,	}	
	}	
Respondent,	}	
	}	
	}	

Based on the Boards allowance for the amending of Petitioner’s previously submitted Opposition to Respondent’s Motion for Judgment on the Pleadings, Petitioner presents their amended Opposition to the Board focusing on the legality of the “ownership” of the Mark by the Respondent.

As discussed herein, ownership is a material fact which forms the basis for the entire registration process. Without ownership, the application is void. Ownership is a material fact

1 that the PTO would rely upon when deciding whether to grant a trademark. *Holiday Inn v.*
2 *Holiday Inns, Inc.*, 534 F.2d 312, 319 nt. 6 (C.C.P.A. 1976). As a question of a triable material
3 Fact exists, this matter should not be adjudicated on a Motion on the Pleadings and should be
4 allowed to go through the discovery process to ferret out the truth of the matter and should not be
5 submitted through mere pleadings. It warrants repeating that the Court can resolve a question of
6 fact on summary judgment "only if the evidence is so one-sided that there can be no doubt about
7 how the question should be answered." *Autozone, Inc. V. Strick*, 543 F.3d 923, 929 (7th Cir.
8 2008).

9 The only issue of ownership comes into play after January 31, 2009 when the MAICO
10 trademark (Fed Reg 2,563,878 – MAICO owned by Ronnie Smith) was cancelled. At that time,
11 the Mark was already being used by the Respondent and many others.

12 LEGAL STANDARDS

13 Any person who believes that he would be damaged by the registration of a mark may
14 file an opposition thereto under Section 12(a) of the Act 15 USC 1062(a). The Opposer must set
15 forth a short and plain statement showing why the Opposer believes he or she or it would be
16 damaged by the Mark, state the grounds for the cancellation under 37 CFR 2.112(a).

17 Any person who believes he or she is or will be damaged by registration of a mark, can
18 show a "real interest" in the proceeding, and has a "reasonable basis for its belief of damage" has
19 standing to file an opposition or cancellation proceeding. *Ritchie v. Simpson*, 170 F.3d 1092,
20 1095, 50 USPQ2d 1023, 1025 (Fed. Cir. 1999) and *Lipton Industries, Inc. v. Ralston Purina Co.*,
21 670 F.2d 1024, 1028, 213 USPQ 185, 189 (CCPA 1982); *Lanham Act Sections 13 and 14, 15*
22 *U.S.C. §§1063 and 1064, and TBMP §303(b).*

23 Petitioner is a third party adopter of the Mark, who along with many others, derive an
24 economic benefit from the use of this Mark through the selling, manufacture and distribution of
MAICO motorcycle parts and accessories to the general public. Petitioner has a business
relationship with the common law owner of the Mark – MAICO ONLY. Petitioner has adopted
the use of the Mark through commerce with other MAICO distributors and manufacturers, some
of whose use of the MAICO Mark predates Respondent's claimed first date of use. There is a

1 common understanding throughout the MAICO community that the trademark and tradename of
2 MAICO is in the public domain based on many peoples use of the Mark in commerce

3 The criticalness of the ownership issue can not be denied. § 15 U.S.C. 1125(c)(6)
4 states: "The ownership by a person of a valid registration under the Act . . . or on the principal
5 register under this chapter shall be a complete bar to an action against that person, with respect to
6 that mark, that ... asserts any claim of actual or likely damage" (due to the owner's assertion of
7 rights over the Mark). Respondent would have the right to destroy the businesses of many
8 companies and individuals, should the Mark register, as registration would give him the right to
9 preclude their use of the Mark. Petitioner will be damaged and as such has real interest in this
10 proceeding.

11 **RESPONDENT IS NOT THE LEGAL OWNER OF THE MAICO MARK**
12 **AS HE IS NOT THE FIRST USER OF THE MARK**

13 To establish rights to a mark, "one must win the race to the marketplace to establish
14 exclusive use of the mark." *Zazú Designs v. L'Oréal, S.A.*, 979 F.2d 499, 503 (7th Cir.1992)
15 The fundamental principle in American trademark law that ownership rights flow from actual
16 use of the mark in commerce . *Rosenruist-Gestau E Servicos LDA v. Virgin Enters. Ltd.*, 511
17 F.3d 437, 440 n.1 (4th Cir. 2007) 1 *Gilson, supra note 3, at § 1.03[7][c]*. The Lanham Act was
18 intended to make "actionable the deceptive and misleading use of marks," and "to protect
19 persons engaged in ... commerce against unfair competition." 15 U. S. C. § 1127. An
20 application based on use in commerce must be filed by the party who owns the mark on the filing
21 date of the application, and if the applicant does not own the mark on the application filing date,
22 the application is void. *TMEP § 1201.02(b)*, referring to 37 C.F.R. § 2.71(d) and *Huang v. Tzu*
23 *Wei Chen Food Co. Ltd.*, 849 F.2d 1458 (Fed. Cir. 1988).

24 Respondent has no standing to assert ownership over a Mark that has been in continuous
use in commerce since at least prior to 1990. The mere fact that a Trademark Registration was
cancelled due to failure to file a statement of use petition and the associated fee, does not allow
for the Respondent to obtain Federal Trademark rights. *Holiday Inn v. Holiday Inns, Inc.*, 534

1 *F.2d 312, 319, n. 6, 189 USPQ 630 (1976)* Respondent ownership rights are precluded by
2 priority of use.

3 **OWNERSHIP CAN BE ACQUIRED BY USE**

4 “[T]he right to a particular mark grows out of its use, not its mere adoption. . . . The use
5 requirement remains one of the most firmly imbedded principles in all of U.S. trademark law,
6 and use in commerce is a cornerstone of the Lanham Act.” - *United Drug Co. v. Rectanus Co.*,
7 248 U.S. 90, 97 (1918). Other early Supreme Court decisions were equally emphatic, and
8 modern authority retains the same vitality. *Rosenruist-Gestau E Servicos LDA v. Virgin Enters.*
9 *Ltd.*, 511 F.3d 437, 440 n.1 (4th Cir. 2007) states the “the fundamental principle in American
trademark law that ownership rights flow from actual use of the mark in commerce.”

10 It is fundamental that ownership of a mark is acquired by use, not by registration. One
11 must be the owner of a mark before it can be registered. The right to use is unaffected either by
12 failure to register or expiration of a registration. Not even the right to exclude is obtained from
13 registration of trademarks and service marks. *Holiday Inn v. Holiday Inns, Inc.*, 534 F.2d 312,
14 319, n. 6, 189 USPQ 630 (1976) (“One must be the owner of a mark before it can be registered.”)
as quoted in *Chien Ming Huang, Appellant, v. Tzu Wei Chen Food Co. Ltd., Appellee.* *tzu Wei*
Chen Food Co. Ltd., Appellant, v. Chien Ming Huang, Appellee, 849 F.2d 1458 (Fed. Cir. 1988)

15 Though Petitioner does not contest that Respondent has used the MAICO Mark in
16 commerce, but his alleged use comes from the buying and selling of MAICO motorcycle parts
17 which has not conferred any ownership of the MAICO as others have used the Mark prior to
Respondent.

18 MAICO Only - Use of MAICO Marks since 1996 (Attachment A)

19 MAICOWERKS – Use of MAICO Marks over 35 years (Attachment B)

20 NORTHWEST MAICO – Use of MAICO Marks since 1990 (Attachment C)

21 **USE IS PREDICATED UPON PRIORITY – FIRST TO USE HAS THE PRIORITY**

22
23 Indeed, one of the fundamental premises underlying the registration provisions in the
24 Lanham Act is that trademark rights flow from priority and that priority is acquired through use.

1 Registration of the mark "shall constitute constructive use of the mark, conferring a right of
2 priority, nationwide in effect . . . against any other person except for a person whose mark has
3 not been abandoned and who, prior to such filing[,] . . . has used the mark" 15 U.S.C. § 1057(c).
4 Thus, so long as a person is the first to use a particular mark to identify his goods or services in a
5 given market, and so long as that owner continues to make use of the mark, he is "entitled to
6 prevent others from using the mark to describe their own goods" in that market. *Defiance Button*
7 *Mach. Co. v. C & C Metal Prods. Corp.*, 759 F.2d 1053, 1059 (2d Cir.1985); *Sengoku Works v.*
8 *RMC Int'l*, 96 F.3d 1217, 1219 (9th Cir. 1996)

9 It is axiomatic in trademark law that the standard test of ownership is priority of use. *ITC*
10 *LTD. v. PUNCHGINI, INC.* 482 F.3d 135, 147 (2007).

11 It will be shown through discovery that Respondent does not have any priority over the
12 use of the Mark MAICO as others have use of the Mark prior to December 1, 2002. Petitioner
13 shows that Respondent purchased parts from MAICO ONLY, prior to 2002, precluding any
14 assertion that he has “owned” the Mark at *any* time. (Attachment D).

15 **RESPONDENT IS NOT THE FIRST TO USE THE MARK AND DOES NOT HAVE**
16 **ANY CLAIM OF OWNERSHIP BASED ON FIRST TO USE**

17 Respondent’s alleged first date of use of the Mark is December 1 , 2002. Petitioner
18 provides the Board with invoices from MAICO ONLY to the Respondent for MAICO parts and
19 decals (Attachment D) prior to December 1, 2002. Attached D details invoices sent to
20 Respondent, John Caldwell, prior to his creation of his company Canadian Maico and 578539
21 B.C. LTD. It is uncontroverted that MAICO ONLY has been using the MAICO name in
22 commerce prior to the first date of use of the Respondent. Since date of use is the test of
23 ownership (*the standard test of ownership is priority of use* , *ITC LTD. v. Punchgini, INC.* 482
24 *F.3d 135, 147 (2007)*), it is clear that MAICO ONLY “owned” the rights to the name MAICO.
MAICO ONLY has continuously used the MAICO mark in the manufacture and distribution of
MAICO parts since 1996 (Attachment A) In fact, the “ownership” of the MAICO Mark can be
traced more than 35 years ago by continuous use by Northwest Maico CZ as they have used the
Mark in commerce to identify the goods sold by them in commerce (Attachment C).

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1 meaningful way after its abandonment, is entitled to exclusive ownership and use of that
2 trademark.” *General Cigar Co., Inc. v. G.D.M, Inc.*, 988 F. Supp. 647, 658 (S.D.N.Y. 1997)

3 As previously stated, priority of use is paramount in determining rights, not just mere
4 use. As previously stated, Respondent does not have priority over MAICO ONLY or many
5 others who have continuously used the Mark in commerce in the manufacture and sale of
6 MAICO motorcycle parts prior to Respondent’s alleged first date of use. “Once abandoned, a
7 mark returns to the public domain and may, in principle, be appropriated for use by other actors
8 in the marketplace . . . in accordance with the basic rules of trademark priority.” *ITC Ltd. v.*
Punchgini, Inc., 482 F.3d 135, 147 (2d Cir. 2007). MAICO ONLY has the priority by
9 continuous use.

10 **RONNIE SMITH’S MAICO MARK WAS NOT ABANDONED AS NEW OWNER HAS**
CONTINUOUSLY USED THE MARK

11 A mark is considered abandoned where (1) "use has been discontinued" and (2) there is
12 "no intent to resume [use] within the reasonably foreseeable future." *Silverman v. CBS Inc.*, 870
13 F. 2d 40, 46 (2d Cir. 1989). "Intent to resume use" must be for use in the United States. *Imperial*
Tobacco, Ltd. v. Philip Morris, Inc., 899 F.2d 1575, 1579 (Fed. Cir. 1990). As previously
14 stated, MAICO ONLY was the owner of the Mark by sale from the owner of the MAICO Mark,
15 Mr. Ronnie Smith.

16 Under the Lanham Act, non-use for three consecutive years establishes a prima facie case
17 of abandonment. 15 U.S.C. § 1127. Although the ultimate burden of proof as to abandonment
18 remains with the party asserting this defense, where non-use gives rise to the statutory
19 presumption of abandonment, the trademark owner must come forward with evidence that the
20 "circumstances do not justify the inference of an intent not to resume use." *Empresa Cubana del*
Tabaco v. Culbro Corp., 213 F. Supp. 2d 247, 268 (S.D.N.Y. 2002) (citing *Exxon Corp. v.*
21 *Humble Exploration Co.*, 695 F.2d 96, 99 (5th Cir. 1983)) as quoted in *ITC LIMITED v.*
PUNCHGINI, INC. (S.D.N.Y. 2005)•373 F.Supp.2d 275, 8280 (S.D.N.Y. 2005)

22 It is undisputed that MAICO ONLY has used the Mark in commerce, even though he
23 unintentionally allowed for the cancellation of the Mark from Ronnie Smith. (Attachment D,
24 invoices to Respondent, Canadian Maico, for Maico Parts). This use precludes abandonment.

1 This "use" is a term of art, as to qualify for trademark rights "the mark must be attached
2 to the product or service sold to the public, and the use must be continuous and bona fide."
3 *DSMR, LLC v. Goldberg*, No. 02-C-5203, 2004 WL 609281, at *4 (N.D.Ill. Mar. 25, 2004).
4 Common law rights exist only when a party establishes that its use of the mark was "deliberate
5 and continuous, not sporadic, casual or transitory." *Circuit City Stores, Inc. v. CarMax, Inc.*, 165
6 *F.3d 1047, 1054-55 (6th Cir.1999)* . There is no requirement for MAICO ONLY or any other
7 listed users of the Mark to Federally register the Mark.

8 For Respondent to have rights to use the Mark via abandonment, Respondent must show
9 that abandonment occurred in this situation to a high degree of certainty. "Because
10 abandonment constitutes forfeiture of a property right, it must be proven by clear and convincing
11 evidence." *Hawaii-Pacific Apparel Group, Inc. v. Cleveland Browns Football Co.*, 418 F. Supp.
12 *2d 501, 509 (S.D.N.Y. 2006)*. The party asserting abandonment bears the burden of persuasion
13 with respect to two facts: (1) non-use of the mark by the legal owner, and (2) lack of intent by
14 that owner to resume use of the mark in the reasonably foreseeable future. *15 U.S.C. § 1127*;
15 *Stetson v. Howard D. Wolf & Assocs.*, 955 F.2d 847, 850 (2d Cir.1992); *Silverman v. CBS, Inc.*,
16 *870 F.2d at 45*; *On-Line Careline, Inc. v. America Online, Inc.*, 229 F.3d 1080, 1087
17 (*Fed.Cir.2000*)

18 CONCLUSION

19 As Respondent stated "In order to survive Respondent's motion, Petitioner must show
20 that there is at least one valid ground for cancelling the Registration (*Young v AGB Corp.*, 152
21 *F.3d 1377 (Fed Cir 1998)*) *Resp. Motion Pg 3 Ln13-14*).

22 Respondent was not the owner of the MAICO trademark at the time of submitting his
23 application. It is shown the MAICO Mark was owned by Ronnie Smith or MAICO ONLY
24 through purchase of assets, until January 31, 2009 through the presumption of ownership via
Federal Registration 2,563,878. Either way, Respondent could not obtain any ownership rights
prior to 2009. Whether the Mark transferred into the Public Domain or was obtained through
common law trademark rights after January of 2009, Respondent's first date of use of
December 1, 2002 does not create any priority whereby he can claim ownership.

1 The MAICO Mark has been used continuously by the Respondent and MAICO ONLY
2 and many companies and individuals prior to January 31, 2009. There is no claim of priority
3 by Respondent. Respondent claims his rights from an abandoned Mark, but he was one of
4 many individuals using the Mark on the date of abandonment, which would have been
5 statutorily, January of 2012. Evidence provided shows continuous use of the Mark by MAICO
6 ONLY and others with Respondent during this time. Respondent has not shown, nor will
7 Respondent be able to show, any rights to ownership, and without the ownership, the
8 application 85/222,759 is void ab initio under TMEP § 1201.02(b), as referring to 37 C.F.R. §
9 2.71(d),

10 THEREFORE, Petitioner respectfully requests that Respondents Motion for Judgment
11 on the Pleadings be denied and let the discovery process begin to shed light on the truth or in
12 the alternative, Petitioner requests that he be permitted to Amend the Petition in accordance with
13 proper format and alleged facts sufficient to permit this matter to continue.

14 Respectfully submitted,

15 /Ken Dallara/

16 Ken Dallara, Esq,
17 Attorney for Petitioner, J. Gary Kortz

Dated : April 13, 2016

18 Law Office of Ken Dallara
19 2775 Tapo Street, Suite 202
20 Simi Valley, California 93063
21 805-297-4510 661-310-0449 Fax kdallara@dallaraalaw.com

CERTIFICATE OF SERVICE

1) I hereby certify that a copy of the PETITIONER AMENDED OPPOSITION TO RESPONDENT'S MOTION FOR JUDGMENT ON THE PLEADINGS was caused to be transmitted to the Trademark Trial and Appeal Board via the ESTTA electronic filing system on 4/13/2016.

2) I hereby certify that a copy of the PETITIONER AMENDED OPPOSITION TO RESPONDENT'S MOTION TO DISMISS was served upon aforementioned counsel by email AND by depositing it with the United States Post Office, postage prepaid, on 4/13/2016 via First Class Mail to the following recipient:

Law Office of Paul W. Reidl
241 Eagle Trace Drive
Half Moon Bay, California 94019
01.650.560.8530 (office)
01.209.613.1916 (cell)
paul@reidllaw.com

By : ____/Ken Dallara/_____
Ken Dallara, Esq - Attorney for Petitioner J. Gary Kortz



1825 Lake Pl
Ontario, CA 91761
(909) 947-1121

April 11, 2016

I, Eric Cook, have been using all Maico trademarks continuously in commerce since 1996.

A handwritten signature in black ink, appearing to read "Eric Cook". The signature is fluid and stylized, with a long horizontal line extending from the bottom of the "k" towards the right.

ATT. A

MAICOWERKS

VINTAGE MAICO PARTS
REPAIR SERVICE RESTORATIONS CUSTOM BIKES

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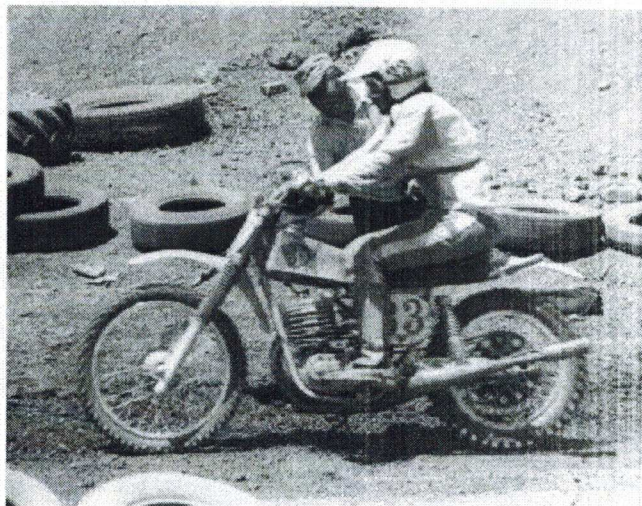
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**Maico**

Our Products: Maico

MAICO

Maico—"Maisch and Company"—was founded by Ulrich Maisch in Poltringen, Germany in 1926. Ulrich first operated the business as a 24-hour automobile service center, and sold bicycle and motorcycle parts as well. When Ulrich's sons Wilhelm and Otto joined the business, they soon began assembling complete bicycles for sale, and by 1935 produced their first motorized two-wheeler. Maico was nationalized by the German government during World War II and made to manufacture airplane parts and other war materiel. Following the war, Maico found itself fortunate to be in Allied-controlled West Germany, and again began producing motorcycles. The company thrived during the 1950s, and began to earn a reputation for producing motorcycles that "were just a little bit better" than the BMWs, Adlers, Kreidlers, NSUs, and other German machines then available, according to German engineer and racer Eric Bley. Maico helped pioneer the production of high-performance two-stroke engines, and mated their power-plants with well-designed, high-quality chassis. It was also during the 1950s that Maico gravitated towards the manufacture of off-road motorcycles, rather than street bikes. As the 1960s began, Maico was well-positioned to supply sporting motorcycles for the growing world of off-road motorcycling. Maico continued to be recognized as an elite brand for enthusiasts. Maico's design for leading-axle front forks, with the upper tubes mounted in the triple-tree, nearly in-line with the steering stem, lessened the mechanical advantage of the front wheel in favor of the rider's strength, and created the only "front-steering" dirt bike in the world for the next two decades. In America in the mid-to-late sixties, with distributors Frank Cooper in place on the west coast and Dennie Moore on the east coast, Maico took off as the elite machine for the newly-imported sport of "moto-cross." Likewise, in Europe in 1972, the word on the international motocross circuit was that if you wanted to win, you needed to be on a Maico. Maico in 1973 was at the center of the introduction of the biggest innovation to ever hit off-road motorcycles: long-travel suspension. Clearly aware of Yamaha's mono-shock efforts, but also acting independently, Maico race-team engineer Reinhold Weiher introduced the twin-shock long-travel rear suspension at the Czech Grand Prix of that year. Maico immediately realized the importance of their discovery, and were quick to share it with every other Maico rider. The company put their long-travel machine into production in early 1974, the famous "1974 1/2" model. Maico engineers were responsible for a litany of industry accomplishments. Among them were the iconic Maico 501; the bullet-fast but fragile 125s—both road-racing and off-road versions; the amazingly-competent MC400 and MC440 machines; and the motorcycle often regarded as "the best motocross bike, for its time, ever made:" the 1981 Maico 490. As former Maico employee—and now KTM vice-president—Selvaraj Narayana points out, Maico engineers produced the basic geometry and layout for every modern dirt bike, with the introduction of the great 490. Maico's pre-eminence in off-road motorcycles ended with the company's sudden—and for years, baffling and mysterious—bankruptcy in 1983. Riders associated with the Maico name include Swedish legend Ake Jonsson. Jonsson's perfect riding, paired with his Maico 400 in the 1972 European and American series, made every other man and machine combination appear inferior. German stars Adolf Weil, Willi Bauer, and Hans Maisch were extremely loyal Maico riders. American champions often associated with Maico include Tim Hart, Gary Chaplin, Rex Staten, Rich Eirstedt, Steve Stackable, Gaylon Mosier, Denny Swartz, and Danny "Magoo" Chandler. Designer/fabricator Greg Smith (founder of WheelSmith Engineering) and Rick "Super Hunky" Sieman (founder and editor of DIRT BIKE Magazine) are also closely associated with Maico.

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About Us

Since 1990, Northwest Maico and CZ, LLC has made no compromise in our commitment to provide the highest quality parts and accessories for Maico and CZ motorcycles. What began as a hobby has now evolved into one of the largest inventories in the nation. All of us at Northwest Maico and CZ, LLC use the products that we design and manufacture.

In 2012, Northwest Maico and CZ, LLC expanded the product line to include Suzuki and Yamaha parts and accessories. For additional product information from Northwest Maico and CZ please check out the rest of our site or call 717-458-8639.

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Att. C



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BILL TO	SHIP TO
John Caldwell 4124 torquay dr victoria, BC CANADA v8n3k9	john caldwell 1733 h.st ste 330a blaine, wa. 98230.

TERMS	SHIP VIA
Due on receipt	US Mail

PART NO.	DESCRIPTION	QTY	RATE	AMOUNT
12-1203b	progressive shocks 13.5, 12 series Out-of-state sale, exempt from sales tax	1	140.00 0.00%	140.00T 0.00
			Total	\$140.00

Returns are subject to a 20% restocking Fee

ATTACHMENT D



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Ontario, CA 91761
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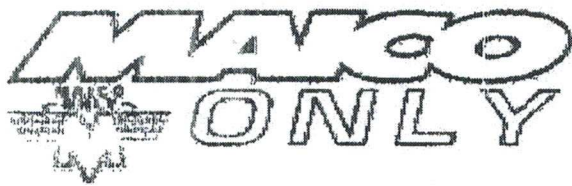
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PART NO.	DESCRIPTION	QTY	RATE	AMOUNT
06792	gasket, 81-83 250 head gasket	1	15.88	15.88T
08224	base gasket, 83-on .5mm	1	6.82	6.82T
01964	FLYING M TANK DECAL, SMALL	2	4.00	8.00T
08021	center case gasket, 250 83-on	1	6.82	6.82T
08023	clutch gasket 83-84	1	7.20	7.20T
08187	83-84 shift shaft	1	82.60	82.60T
	Out-of-state sale, exempt from sales tax		0.00%	0.00
			Total	\$127.32

Returns are subject to a 20% restocking Fee

ATT D.



1825 Lake Pl
Ontario, CA 91761
(909) 947-1121

Invoice

DATE	INVOICE #
9/27/2007	6352

BILL TO	SHIP TO
CANADIAN MAICO 4124 TORQUAY DR VICTORIA B.C V8N3K9 CANADA	CANADIAN MAICO 4124 TORQUAY DR VICTORIA B.C V8N3K9 CANADA

TERMS	SHIP VIA
Due on receipt	US Mail

PART NO.	DESCRIPTION	QTY	RATE	AMOUNT
01965	flying m tank decal small	4	3.75	15.00T
12340	shipping /handling	1	8.00	8.00
	Out-of-state sale, exempt from sales tax		0.00%	0.00
			Total	\$23.00

Returns are subject to a 20% restocking Fee

ATTN



1825 Lake Pl
Ontario, CA 91761
(909) 947-1121

Invoice

DATE	INVOICE #
12/1/2009	8279

BILL TO	SHIP TO
CANADIAN MAICO 4124 TORQUAY DR VICTORIA B.C V8N3K9 CANADA	CANADIAN MAICO 4124 TORQUAY DR VICTORIA B.C V8N3K9 CANADA

TERMS	SHIP VIA
Due on receipt	US Mail

PART NO.	DESCRIPTION	QTY	RATE	AMOUNT
mor7973	MOR AIR BOOT 83-84 ALL	10	20.00	200.00
12340	shipping /handling	1	22.50	22.50
	Out-of-state sale, exempt from sales tax		0.00%	0.00
			Total	\$222.50

Returns are subject to a 20% restocking Fee

Att. D.

U.S. MAICO® L.L.C.

3212 Hwy 21 South, Oxford, Alabama 36203 USA
Tel: 256-831-3029 Fax: 256-831-3519 E-mail: ronnie@usmaico.com
www.usmaico.com

January 3, 2006

To all Maico Motorcycle Dealers,

Effective January 1, 2006, Eric Cook of Maico Only has purchased U.S. Maico, LLC and all its assets. We appreciate all of your patronage over the past years and encourage you to contact Maico Only for all of your Maico needs.

Maico Only
1601 S. Cucamonga Ave.
Ontario, CA 91761
Phone: (909)947-1121
Fax: (909)947-6620
Email: maiking@earthlink.net

Best Regards,


Ronnie S. Smith

ATTACHMENT E

Int. Cl.: 12

Prior U.S. Cls.: 19, 21, 23, 31, 35 and 44

United States Patent and Trademark Office

Reg. No. 2,563,878

Registered Apr. 23, 2002

TRADEMARK
PRINCIPAL REGISTER

MAICO

SMITH, RONNIE S. (UNITED STATES CITIZEN)
2806 LARK DRIVE
OXFORD, AL 36203

FIRST USE 6-1-1981; IN COMMERCE 6-1-1981.

SER. NO. 78-068,391, FILED 6-11-2001.

FOR: MOTORCYCLES AND PARTS THEREFOR,
IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FLORENTINA BLANDU, EXAMINING ATTORNEY

ATT. F.